

1894-022 Chancery Causes: Elizabeth M. Barker vs. Malinda Legg &c
Lee Co.

Bailey, Smith, Gates

CA - Estate Dispute
T - Property
Women

- Deed

To the Honorable W. T. Miller Judge of the
Circuit Court of Lee County.

Humbly Complaining your oratrix Elizabeth
Barker would respectfully represent and shew
unto your honor that her husband Benjamin
W. Barker Dec. in his life time owned, was seized
and possessed of considerable real estate situated
in the Crab Orchard Lee County State of Virginia.
That before his death in the year 1875. he conveyed
certain portions of said land to Malinda Legg, Eliza J.
Bailey and Elizabeth R. Barker ^{his daughters} your oratrix joining in
said deeds. A copy of which are here filed marked Exhibits
"A", "B" and "C" and prayed to be treated as part of this bill -
Now your honor will see from an inspection of
said deeds. That the vendors, Benjamin W. Barker and
your oratrix retained possession and control of said land
for the purpose of supporting themselves until they saw
proper to deliver said land to the said vendors Malinda
Legg, Eliza J. Bailey and Elizabeth Barker ^{who afterwards married Saml. Smith} And that from the
time the said land was delivered to the vendors they were
to support and maintain B. W. Barker and your oratrix
^{during their lives until their death.}
Now your oratrix alleges that she and her husband
B. W. Barker retained possession of said land and supported
themselves until the day of 18 - at which
time they delivered the possession of said land to their
vendors Malinda Legg, Eliza J. Bailey and Elizabeth R. Barker ^{Smith nee Barker} that
since the delivery of the possession of said land and since
the death of your oratrix's husband B. W. Barker who died
on the day of 18 - about six years ago, your
oratrix has had to support and maintain herself by her
own labor ^{she being very old} that the defendants and vendors Malinda Legg
Eliza J. Bailey and Elizabeth R. Barker ^{Smith nee Barker} Contrary to the

1 the intent, purport and Consideration of said deeds
2 have failed and refused to contribute even one cent
3 to the support and maintenance of your Oratrix
4 And still fails and refuses to do, And their failure
5 has continued for about six years, all of which time
6 your Oratrix has had to support and maintain herself -
7 and furnish herself with the necessaries of life - that
8 the defendants have been in possession of said lands
9 during this time, Now your honor will discover
10 from the said deeds referred to, that the certificate of
11 acknowledgement is false, bad and defective ^{as to your Oratrix} And your
12 Oratrix avers that - the Consideration of the said deeds
13 have failed, in this that - the defendants Melinda Legg
14 Elizabeth R. ^{Smith nee Parker} ~~Smith nee Parker~~ and Eliza J. Bailey fail and refuse to
15 support and maintain your Oratrix according to
16 the express terms and intentions of said deeds Therefore
17 your ^{Oratrix} prayer is, that Melinda Legg, Eliza J. Bailey and
18 Elizabeth ^{Smith nee Parker} ~~Smith nee Parker~~ be made parties defendants to this
19 bill and require to answer the same but not on
20 oath that being waived, that upon a hearing said
21 deeds as to your Oratrix be set aside, vacated and annulled
22 for a failure of consideration and that Commissioners be
23 appointed to lay off and assign to your Oratrix her
24 dower in said lands, but if mistaken in this relief
25 asked for, your Oratrix would then pray a decree
26 against the defendants for a decent support and
27 maintenance during all the time which they have failed
28 and refused ^{and all time to come by her natural life - till her death} to do, that proper process may issue and that
29 your Oratrix may have such other further and general relief
30 as the nature of her case may require, or to equity shall seem meet.
31 And your Oratrix will ever pray etc -

M. G. Ely P. R.

To the Hon. W. T. Miller, Judge of the Circuit Court of Lee ~~and~~ County, Virginia.

The separate demurrer and answer of Malinda Legg to a bill in chancery exhibited against her and others in this honorable Court by Elizabeth Barker.

Respondent says that complainant's bill is not sufficient in law to call upon her to answer in this honorable Court, but that there is good cause of demurrer thereto, and she demurs accordingly, and prays judgement of her said demurrer &c.

And not waiving said demurrer, but relying and insisting thereon, should other and further answer be required of her answering, she says:

That it is true that Benjamin W. Barker, deceased, was at one time in his life seized and possessed of some real estate situated in the Crab Orchard, in Lee County, Virginia; that it is further true that the said Benjamin W. Barker, in the year 1875, partitioned the remaining part of his land (he before that time having conveyed a portion to his son, H. F. Barker,) among his three daughters, to wit, Eliza J. Bailey, Elizabeth B. Barker and your respondent, by which your respondent received a small tract of land containing 30 acres, ~~by~~ which by deed dated on the 1st day of January 1875 was conveyed to respondent by both the said Benjamin W. Barker and the Complainant, a copy of said deed will be filed herewith as part hereof marked "1" if deemed necessary. It is true that by the terms of said deed the said B. W. Barker and the Complainant, his wife, reserved the right to hold said land in full possession, to manage and make his maintenance on the same until their death or until they saw proper to deliver it to your respondent. There is a further provision in said deed that the heirs or children of the said B. W. Barker and Elizabeth, his wife, were to maintain them from the time of the delivery of the full possession of said land. It is further true that the said B. W. Barker and Elizabeth, his wife, retained the possession of said land till about the year 1883 when they delivered the possession thereof to your respondent and about

the same time respondent's husband, J.K.P. Legg, purchased from Elizabeth E. Smith, nee Barker, the parcel of land conveyed to her by her father, and after that time the said J.K.P. Legg and the said B.W. Barker and Elizabeth, his wife, agreed that the said J.K.P. Legg should pay them the sum of \$30.00 each year for the ~~next~~ first two years after possession was delivered as aforesaid, and \$32.50 each year for the next two succeeding years. Respondent says, that pursuant to said agreement her said husband paid to the said B.W. Barker and his wife \$60.00 for said first two years, and during the next year at their request he paid them \$74.50 being \$42.00 on the next years. Settlement of which was made with the said B.W. Barker who just before his death which occurred in the latter part of the year 1888. By agreement, as respondent is informed, between the said husband and the said B.W. Barker, said \$42.00 thus overpaid as aforesaid was to be credited to this respondent ^{her husband} on her obligation for support and maintenance as set out in said deed aforesaid. Respondent says it is not true that her mother the said complainant has had to support and maintain herself by her own labor since the death of her husband, the said B.W. Barker, but on the contrary, respondent says that the said complainant went to and resided with her daughter Eliza J. Bailey for the first year after the death of her husband the said B.W. Parker. at the end of which year she came to respondent's and lived with her for the period of three years, during which time respondent cared for, maintained and supported the said complainant in as ample a manner as she was able, furnishing her with everything to use, and everything that was necessary for her use. Complainant left respondent of her own free will and accord against the earnest protestation of this respondent and her husband who begged with her to remain with them in the comfortable home that they were able to and did provide for her. Respondent is willing now as she always has all the time been willing to support, care for and maintain her mother, the said complainant, if she will only come and stay with her, but she fails to see

see either justice or charity in furnishing her money or other thing to be given away and expended on somebody else.

Respondent says it is true, as she is advised, that the certificate of acknowledgement to said deed is defective as to the acknowledgement of the same by complainant, and that perhaps if she wants to claim it that she would be entitled to assignment of dower out of the tract of land conveyed to respondent, but she is advised that before she can ask for such assignment, that she will have to account for the three years support and maintenance so bountifully furnished her by respondent and her husband. At the time respondent and her husband took possession of said land it was not worth more than \$5.00 per acre and the rental value would not have been more than \$20-\$25.00 per year. Respondent's husband has cleared up 10 or 12 acres and put it in a state of cultivation, has built a barn on it relying upon said deed and the support and maintenance furnished. And in no event could the complainant, as respondent is advised, be entitled to more than compensation in lieu of dower equal to one third of the rental value of said lands in the condition in which it was when possession was delivered to her. *

Respondent says her mother is very old, childish, easily persuaded, and scarcely able to judge of what is best for her. *and in no condition mentally to attend to any business* And respondent here again offers to support and maintain her mother if she will come and live with her. What more she can do must be told to her by the court.

Respondent denies that said deed is invalid, [^] and if the court should be of opinion that ~~she~~ her said mother is entitled to dower or compensation in lieu thereof, then respondent asks that she be given compensation and that the court fix the amount thereof by its decrees so that there will be no uncertainty hereafter in the matter. And now having answered complaint's bill as fully as deemed material, respondent asks to be dismissed with her costs &c.

Duncan & Hyatt
Attorneys.

Malinda Legg by
Counsel

* And also that the right of the plaintiff to set the same aside by writ has not been used to the plaintiff within five years before the institution of this suit

Maunda. Legg
ans^d by Deem. & Answer

Elizabeth Barker

Filed April 18th 1894
A. B. Munsey
Clerk

To the Honorable W.T. Miller Judge of the Circuit Court of

Lee County: *Virginia.*

The ^{separate} demurrer and answer of Eliza J. Bailey to a bill exhibited against her and others in this Honorable Court by Elizabeth Barker.

Respondent says the Complainants bill is not sufficient in law to call upon this Respondent to answer in this Court.

And not waiving said demurrer but relying and insisting thereon, should other and further answer be required of her, answering, she says: That it is true that the said B.W. Barker was in his lifetime seized and possessed of a tract or tracts of land situated in the Crab Orchard in Lee County Virginia; that while so seized, he determined to partition his lands among his three daughters, he having before that time conveyed a parcel of his lands to his son H.F. Barker; that pursuant to that determination about the 1st day of January 1875, made deeds to each of his said daughters, to wit, Malinda Legg, Elizabeth Barker and your Respondent, It is likewise true that there is contained in the deed made to your respondent as well as in the deed to the said Malinda Legg and Elizabeth Barker a provision by which the grantor's reserved the right to hold the land in full possession and to manage and to make their maintenance thereon until their deaths, or until they saw proper to deliver it to the grantees. There is a further provision that the heirs of the said B.W. Barker, after the delivery to them of the possession of said land, were to support the said B.W. Barker and his wife.

Respondent will now show your honor that there were four of said heirs or children of the said B.W. and Elizabeth Barker, to wit, H.F. Barker, Malinda Legg, Elizabeth B. Barker who intermarried with Samuel L. Smith, and respondent, to all of whom the said B.W. Barker made conveyance of parts of his land, each one of whom, as respondent is advised, it was the intention of the said B.W. Barker and wife, to charge with a part of their support and maintenance.

Respondent will further show your honor that she did not get possession of the tract of land conveyed to her until after the death of the said B.W. Barker, which occurred in the latter

X And Respondent denies that the said deed to respondent from plaintiff is invalid, and also that the right of the plaintiff to set the said aside by suit has accrued to the plaintiff within five years before the institution of this suit.

part of the year 1888. And shortly thereafter your respondent by and at the request and with the consent of the said complainant sold the tract of land conveyed to her by the said B.W. Barker and wife to J.K.P. Legg, And in this conveyance the said complainant joined, all of which will more fully and at large appear by reference to the deed made by respondent, her husband and her mother, the said complainant, which is filed herewith as part hereof marked "2". So respondent says that she has no interest whatever in said land, nor does the complainant have any right, as your respondent is advised, to charge said land, thus conveyed to the said J.K.P. Legg, with any part and of her support and maintenance. X

Respondent says that it is not true that the said complainant, since the death of her said husband, has had to support and maintain herself. It is also untrue that her said children have not contributed anything to her support and maintenance, but on the contrary, immediately after the death of her said husband respondent took her and her stock consisting of a horse and two cows to her home and supported and cared for her and her stock in the best manner possible and with which no complaint was ever made so far as respondent knows. for the period of one year. At the expiration of which time she left respondent and went to the home of her daughter, Malinda Legg, where she remained for three years, or until about September or October 1892 when she left there and has since that time resided with her son, H.F. Barker. Both respondent and the said Malinda offered to keep and insisted upon the said complainant remaining with them, and it was her own voluntary act that caused her to leave. Respondent is still willing to keep her if she will only come and remain with her, but she protests against having to support another family under the guise of contributing to the support of her mother. Respondent says that the said complainant is now old and feeble in body and still feebler in intellect, and that in this suit, she believes that the said complainant is being influenced by others, and that it is not her own act which

induces this suit so much as it is the designs and influence of those with whom she is now living.

Respondent says that the complainant ought to be required to amend her bill so as to make the said H. F. Barker a party defendant thereto, it being as much his duty to assist in the support and maintenance of the complainant as it is of the other children.

And respondent having now answered said bill as fully as she is advised material, respondent prays to be hence to be dismissed with her costs &c.

Duncan Hyatt, p.d.

Eliza J. Bailey
ads $\frac{3}{2}$ Answer.

Elizabeth Barker

Duncan & Hyatt, p. d.

Filed April the 18th 1894
A B Munsey clk

Elizabeth Barker

vs

} Secm

Malinda Legg et al

This cause came on this day to be heard upon the papers formerly read in the cause, the report of Leon's Wm A. Orr, Jr., and the exceptions thereto, and was argued by Counsel: Upon Consideration whereof the Court is of opinion that H. F. Barker is not a necessary party to this suit. And the Court further decrees that the plaintiff recover from Elizabeth R. Smith the sum of \$100⁰⁰ as of this date and that ~~the~~ unless the same is paid within thirty days execution may issue therefor. And the Court further decrees that Malinda Legg pay to the plaintiff \$30⁰⁰ per annum payable semi annually from this date & if not paid as the same or any portions thereof becomes due execution may issue therefor.

And the Court further decrees that the plaintiff recover from ~~Elizabeth R. Smith~~ ~~Malinda Legg~~ the sum of \$30⁰⁰ per annum payable semi annually and unless paid when any part becomes due, execution may issue therefor.

And the Court further decrees that
the sum of money shall be a
lien on the land mentioned in
the cause ^{as directed by the court respectively} and that the plaintiff
recover from Elizabeth R. Smith
and Malinda Legg her costs
and the cause is stricken from
the docket.

Elizabeth Barker
vs Legg

Malinda Legg et al

Delivered in Legg
Q. V. 3, Page 123

Conferees Court
Drs report

Leah

11/11/11
11/11/11

Elizabeth Barker
vs. J. C. Barker
Malinda Legg et al

This cause came on this day to be heard
upon the bill of the plaintiff and exhibits
thereunto and the answers of the said Malinda
Legg and Eliza Barker. general replication
thereto, and process having been duly served on
Elizabeth B. Smith, she failing to appear and
answer, plead and demur, the bill as to her is taken
for confessed, and was argued by counsel.
On consideration whereof and it appearing to
the court proper, it is adjudged, ordered and
decree that Will A. Orr Jr. be and he is hereby
appointed a Commissioner to ascertain and
report whether or not the said defendants
since the execution of said deeds, have supported
and maintained said plaintiff, since the
delivery of the possession of said land, whether
or not they have failed and refused to support
the plaintiff and how long their failure has
continued, and how long she, the plaintiff has had
to support and maintain herself, and whether or
not her dower should be assigned her in said lands,
and to ascertain what ^{would be} a reasonable sum to be
contributed by defendants yearly, to the support
of said plaintiff, and whether or not H. F. Barker
should be made a party defendant to this bill -
and report any other matter deemed pertinent by
said Commissioner as required by said parties.
He will report his action to the next term of
this court, and the cause is continued.

will be made in the bill

Elizabeth Barker
vs & Duerie
Matilda Leggetts.

Ent on Chy. Ord Book P 34.

affidavit of A Orr
for Comm.

"A"

Enter this

M L M

Jan 14th 1894.

Deposition for plaintiff.

1 Virginia: In the circuit Court of Lee County
2 Elizabeth Barker
3 vs } In Chancery.
4 Malinda Legg et als
5 The depositions of Elizabeth Barker.

6
7 ^{Oral and before}
8 taken at ~~the Office of~~ Wm A Orr, Jr, Commissioner, in
9 ~~England~~, Lee County, Va., on the 8th day of Oct,
10 1894, which depositions when taken are intended
11 to be read as evidence in the matter of account
12 in said cause now pending before said
13 Commissioner, and on behalf of the
14 plaintiff.

15 Present: M. G. Ely atty for Plff & E. N. R. Ewing atty
16 for Defs.

17 Ques- State your age and whether you are plain-
18 tiff in this suit.

19 Ans- My age was twenty five years and the
20 17th day of last June. I am Plaintiff in
21 this suit.

22 Ques- Please state how long your husband
23 B. M. Barker has been dead?

24 Ans- Well he has been dead 6 years
25 last Sept as well as I remember
26 died the 2nd day of Sept.

27 Ques- Please state whether or not the defts.
28 in this suit: Malinda Legg, Eliza J.
29 Bailey and Elizabeth R Smith have
30 supported and maintained you
31 since the death of your husband
32 pursuant to the terms to the order
33 filed in this cause

Ans. 1 I have been supported part of
 2 the time at Pell & Leggs about 3
 3 years, as near as I can tell
 4 was among my people part of
 5 the time. My clothing and
 6 medicines I bought with my
 7 own money that my father left
 8 me. I had my things about
 9 12 months at Will Bailey. I
 10 eat there, think I took more
 11 there than I eat

Ques. 12 Please state whether or not the Deft in
 13 this suit have supported and
 14 maintained you any for about
 15 the last two years and if not who
 16 has?

Ans. 17 They have done nothing in that
 18 length of time for me except what I
 19 have paid for. I have supported
 20 and maintained myself with my
 21 own money except a few
 22 mos. - Pell & Leggs

Ques. 23 Please state what amount of money you
 24 think would be reasonable for
 25 the Deft. to contribute per year for
 26 your support & maintenance

27 This question is objectionable because
 28 wholly immaterial, the dect. providing only
 29 for support & it has been no where shown
 30 that the defendants have refused to sup-
 31 port the plaintiff.

32 Giving for
 Deft.

Ans. 1. At my age and in my condition
 2 I cant see how I could get along
 3 with less than \$80.00 or \$90.00 per year
 4 X

Ans. 6. I do not know whether or not the defendants in
 6 this case did not offer to take care of you?
 Ans. 7. Of course they offered to and I came
 8 and stayed with Palk Legg awhile
 9 & Wm Bailey awhile and I couldnt
 10 stand it there.

Ans. 2. Did not Mr. Legg offer to build you
 12 a room to yourself, tell you that
 13 you could move into it?

14 The foregoing question is objected to because irrelevant
 15 and immaterial. M. H. Ely atty for Off.

Ans. 16. He offered to build me a room
 17 in his yard - it did not suit
 18 me to stay there -

Ans. 3. Did not Mr. William Bailey make
 20 you the same proposition?

21 This question is objected to reasons above stated

22 M. H. Ely atty for Off.

Ans. 23. They were to furnish a house for me
 24 to myself but - they never done it.

Ans. 4. Did any of these defendants ever refuse
 26 to do any thing toward your support
 27 that was reasonable, if so what?

Ans. 28. Palk Legg said he wouldnt do anything
 29 for me unless I stayed at his house
 30 that if I lawed him he would put
 31 it off from time to time till I died
 32 I told him I would law - I heard
 this from others who said that he
 said it.

Ques. 5. Did not Matilda Legg give you two
 2 heavy linsey dress, some worsted dress,
 3 one calico dress, stockings, & such things
 4 as there, while you lived at Mr. Legg's?

Ans. 5 And also one pair of shoes?
 6 No sir she did not - I had yarn
 7 and had it spun before I went
 8 down - she put the chin in web
 9 and it was woven for me -

Ques. 6. Stole whether or not H. F. Barker is a
 11 son of yours?

Ans. 12 Yes sir he is a son of mine -

Ques. 7. Did he not his part of the estate
 14 as did the other children?

Ans. 15 His father deeded his share of the
 16 land either the other. The maintenance
 17 was not put in his.

18 The foregoing question answer is objected to because
 19 the deed from B. M. Barker and wife to H. F. Barker
 20 is the highest and best evidence, M. G. Ely atty for P. P.

Ques. 8. How long has your son, H. F. Barker, been
 22 in possession of his land, & stole
 33 whether he did not raise his family there?

Ans. 24 I can't tell you - It's been between
 25 22 and 23 years -

26 The foregoing question and answer is objected to
 27 because the date of the deed is the best evidence,

Ques. 9. ~~Did not H~~ M. G. Ely atty for P. P.

29 Did not Mrs. William Bailey & his wife
 30 at one time tell you that they would
 31 support & take care of you whether any
 32 one else helped or not?

Ans. The foregoing question is objected to because irrelevant
 immaterial, self-serving and highly inadmissible

M. G. Ely atty for
 Off.

Ans 1 I don't remember whether he did or
2 not. I ~~reckon~~ they all would all have
3 supported me if I would have stayed
4 but I would not stay

Ans. 10 Where do you now live?

Ans 6 My home is at Francis' ~~my son~~.

Ans. 16 Is your condition like there then
8 it would be at either of the other
9 places?

Ans 10 Yes in this case it is. there I
11 was mixed up in a family; now
12 I have a room to myself.

Ans. 12 Is there not children there, and are you not
14 not in considerable noise, and are you not
15 eat with the family?

16 Questions repeated because of immateriality
17 irrelevant &c

Ans 8 Yes there are children there - Con-
19 siderable noise - I eat and work
20 ~~by~~ by myself.

21 And further this deposed oath not
22 Elizabeth ~~for~~ Barker
23 ~~marie~~

Virginia: In the Circuit Court of Lee County

Elizabeth Barton

vs

Milinda Legg et al

The depositions of J. J. Yates.

In Chancery

taken at the Crab Orchard in Lee Co. Va -

on Oct. 8th 1894 before W. A. Orr, Jr. a

Commissioner, which depositions are in-

tended to be read as evidence in the matter of

account in said cause now pending

before said Commissioner, and on be-

half of the Defendant Present: M. G. Ely

Attorney for Plff. Q. Are you acquainted with

Plff. Elizabeth Barton and were you

acquainted with her at the time she lived

with me? [Mrs. Milinda Legg]

A. I was -

I tell now all you know of our treatment

of her while she was with us -

A. I was around her many times while

she was here - stayed all night here &

as far as I could see she was treated

as well as a person could wish to be treated

they seemed to want to humiliate her to anything

she seemed to want she was kinder

old & childish - Heard Felt Legg talking

to her when she was talking to her of

going away from her & he told

her she was welcome to stay and

have such as he had

1 And when she wanted to visit her people
2 she could leave a horse & go when she
3 pleased & come back when she
4 pleased.

5 Q. ~~Did~~ The foregoing question and answer
6 thereto is objected to because irrelevant,
7 immaterial, hearsay, self serving and inadmissible.

Mr. G. Ely atty for off.

9 Q. Did you hear him say that she
10 could marry this her home and
11 he would take care of her her lifetime
12 without any expense to the him?

13 A. yes, I have heard him say
14 it different times.

15 Q. Did you ever hear him offer to build
16 her a house or furnish her a room
17 so she could put her things to her use?

18 A. I don't remember that I did.

19 The foregoing questions and answers are objected to
20 because hearsay, Mr. G. Ely atty for off.

21 Q. Haven't you understood it all along
22 that she was partial with me (Mildred
23 Legg) wanting to take from me and give
24 to the other him?

25 The foregoing question is objected to because
26 irrelevant. Mr. G. Ely atty for off.

27 A. From what I can see & find out - I
28 have reason to believe that she is
29 ~~as~~ I state what you know as to us being a
30 a noisy family and disturbing old
31 persons.

32 The foregoing question is objected to because
irrelevant. Mr. G. Ely atty for off.

31 A. I never saw any thing that would disturb the peace of any person while I have been around here.

Q. Don't you believe that it would be better for Mrs (Peggy) to come and live with me or her mother or sister, Mrs E. P. Bailey, than to be out with some body that don't care for her with a dowry or a salary to destroy.

A. No going question is objected to because it is leading, immaterial, & irrelevant and a mere opinion of witness - M. G. Ely atty for P.

A. My opinion is that home (St Paul Leggs) would be the best place for her to live - as I don't know very much about Bailey's.

Ques 17 Please state what relation you are to the defendant in this suit Mrs. Matilda Legg?

A. I am her son-in-law.

Ques 20 Are you acquainted with Mrs Elizabeth Barker the plaintiff in this suit, with her habits, customs and condition in life?

A. Am acquainted with her - not acquainted with her customs conditions or habits.

Ques 25 Do you know where she now lives, if so where?

A. She lives at St. H. Barker's

Ques 27 How long has she been living there?

A. I don't know.

Ques 29 Were you acquainted with her when she lived here with her daughter Mrs Matilda Legg? ^{about} How long since she left here?

A. I was acquainted with her when she lived here.

41

1 I don't remember what she did leave her

Ques 2 What do you think it would be worth to support
3 the plaintiff was Elizabeth ^{Boyer} per year, that is to furnish her
4 food and clothing and the necessities of life for a woman
5 of her age and condition?

6 Question is objected to by Plff - Milinda Legg

7 ~~Answer~~

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9
10 I think a person could keep her for \$40⁰⁰ per
11 year.

12 Rebuttal

13 Did you think either her children could afford to take her
14 and take care of her at their homes for nothing
15 For going question is objected to because it
16 portends to make her own witness con-
17 tradict himself M. G. Ely atty for Plff

Ans 18 I think they could take her and keep her
19 for nothing if they wanted to.

20 Another disbursement & with out

21

J. J. Gates

(claims attendance)

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1 Eliza J. Bailey, an othe witness of law-
2 ful age, being first duly sworn
3 deposes and says:-

Ques. 4 State whether or not you are
5 made one of the defendants to the
6 bill in this case, and state whether
7 or not you are now interested in
8 this controversy, if not why not?

Ans. 9 I am one of the Deft. The land that was
10 conveyed to me, I sold to Mr. Legg
11 My husband and mother joined in the
12 sale. As directed me by the Deed we decided
13 that land & him free from all in-
14 convenience. I have with file a
15 Certified Copy of said Deed marked
16 "H"

Ques. 2 State whether or ^{not} you or your husband
17 ever refused to support or care for your
18 mother, the plaintiff in this cause?

Ans. 20 I never did - my husband never so
21 far as I know of - Have heard my
22 husband say he was willing to keep the
23 care of her. I objected to her leaving
24 and so did he -

25 Observe answer so far as it speaks of Mrs Bailey
26 saying to & so is objected to on ground
27 of irrelevancy M. H. Ely atty for Opp.
28 X

Ques. 3 Please state whether or not you have contributed or in
30 any way helped to support and maintain your mother
31 in the last two years?

Ans. 32 No sir I recollect not, that I know of.

61

1 Please state whether or not when your mother joined
2 in the deed with you and your husband to J. K. P. Legg
3 for the land deeded to you by B. W. Backer and wife, did
4 she release you from your obligation to support and
5 maintain her by your mother?

Ans 6 Don't know or she said anything about
7 support. I can't answer yes or no
8 for there was nothing said about it
9 she was in her right mind and caused
10 the deed to be made as it was

11 Re direct -

12 Tell what you know of the circumstances
13 under which Mr. Legg & also your-
14 self, offered to keep your mother?
15 objected to because irrelevant and immaterial

Ans 16 M. G. Ely attorney
17 The home I offered her was as good as she was
18 use to. It was a comfortable & neat home.
19 we offered her a room to herself -
20 Mr. Legg was better prepared to take care of her
21 than we were - except as to the rooms
22 which were about the same -

33 Am yet willing to take care of her if she
24 will come and stay with me -

25 Re X - -

26 Are you now willing to contribute anything to
27 her support and maintenance and let her live at
28 a home of her own?

Ans 29 No unless she will come and live at
30 my home

31 And further this Deponent oath not -

32 Eliza J. Bailey

(Claims attendance)

71
1 Jas. M. Holcomb another witness of lawful
2 age being first-duly sworn deposes and
3 says:

Sw. 1. 4 State whether or not you know all the
5 parties to this suit, and state where
6 you were living at the time Mrs. Barker
7 says she was living with her daughter,
8 Mrs. Molinda Legg, still all you know
9 of her treatment while she was there?

(10 Objected & because its irrelevant and immaterial)

M. G. Ely Attorney at Law

11 I know all the parties to this suit. I was
12 working for Mrs. Legg. Mrs. Barker was treated
13 as well as a person could expect to be treated
14 at any place. She was kindly treated at the
15 table as well as at any other place in the house.
16 If she wanted any thing that was not on the
17 table it would be fixed for her if she could
18 not do it herself. A chair was put to the
19 table by Mrs. Legg or some of the family
20 for her when she did not take it her
21 self. Mr. Legg offered all kinds of offers if she
22 would stay with him - offered a better
23 room in his parsonage if she wished it
24 or put one in the yard or close by
25 where he or some of his family could
26 attend to her. said she would rather be
27 in the ~~house~~ at the old house where she once
28 lived. He told her he did not feel it
29 safe for her to go there, for he could not
30 see after her so well - nor could his
31 children go that far to look after or wait
32 on her.

1 He offered her a horse & go where
2 she pleased and furnish her a hand
3 to go with him if she would remain
4 with him where he could see after
5 her - if it was not some unnecessary
6 place where it would injure him
7 in his crop that he would take her
8 or furnish a hand to go where she
9 got ~~frustrated~~ ^{needed} he would furnish her
10 shoes without charge

11 The foregoing answer is objected to because
12 it is chiefly hearsay M. G. Ely atty for Plff
13 I heard

14 Ques. How do you know these things?

15 Ans. I saw them and heard them -

16 Ques. Did you ever hear any of Mr. Legg's
17 family speak ~~incompetently to~~
18 ~~of~~ Plff -

19 Ans. I never did -

20 Forgoing question & answer is objected
21 to because irrelevant and immaterial and
22 hearsay - M. G. Ely atty for Plff

23 - X -

24 Ques. When did you begin to work for Mr.
25 Legg -

26 Ans. I don't remember what year - but was
27 the first year Plff came there

28 Ques. How long did Plff live at Mr. Legg's
29 I think she lived there about 3 years

30 Ques. How much of that were you there

31 Ans. I think I worked there 3 years she stayed
32 there 3 years and an

33 And further this defendant saith not
Jos. M. ^{hus} Halcomb
witness

(I drop attendance)

9.

Samuel L. Smith ^{witness of} another lawful age
~~witness~~ being first duly sworn
deposes and says:-

Preliminary Examination

Ques. Please state what relation ~~that~~

you are to Elizabeth R Smith

one of the Defts in this suit

Ans. Am her husband

The foregoing witness is objected to

because he is the husband of one

of the Defts. M. G. Ely atty for Plff

Ques. Do you know Melinda Legg & Eliza

Bailey, some of the defendants, if so state

whether or not you were about the home

of Melinda Legg while her mother the

defendant in this cause, lived with

her, tell all about said plaintiff's

treatment by Mrs. Legg & the family?

Ans. I think I do know deft named - was

at Mrs. Legg's for some time while Mrs. Barker

lived there. As far as I could see her

treatment there was as good as a person

could wish. I saw nothing to mar

her ^{peace &} happiness there. I was at work

there and came in one day at 12. She

seemed to be wanting to get herself at the

old home place. Mr. Legg asked me to

go in with him. & he would try to satisfy

the old lady. He asked her to explain

herself why it was that she wanted to go to

the old place. She said she wanted to get

her things to herself

1 He asked her what she could do with her things in case
 2 she had them herself. Asked her if she thought she would
 3 be sorry if she had nothing to live on and some one of
 4 her grand children with her than she would
 5 in the house with some of her children with
 6 the care of her child and grand children
 7 He told her she was perfectly welcome to stay
 8 with him as long as she would and he
 9 would be no burden to the other heirs. He
 10 told her his table would be her table his fire side her
 11 fire side. If there was anything her appetite
 12 could eat that he didn't know all she had to do
 13 was to name what she wanted if it was in the bounds
 14 of the rail road he would get it; Told her if she
 15 was not satisfied in his house with them
 16 he would have her a house or room fixed
 17 to her self and if she wanted to go any trip that was
 18 not unnecessary he would furnish her means
 19 to go and see her returns safely without any
 20 burden to any of the other heirs
 21 For any question and answers thereto are objected
 22 to because immaterial irrelevant, hearsay, self
 23 serving and highly inadmissible

My. Ely atty for Pff
 Mrs. Legg

24 ~~Q. State what~~
 25 ~~are you known as~~ ~~whether being partial to~~
 26 ~~any one waiting to take from her and give to the rest~~
 27 ~~of the heirs?~~

28 ~~A. I am knowing whether being partial-~~

29 ~~For any question is objected to because it is~~
 30 ~~irrelevant & immaterial & leading~~ My Ely atty for Pff

31 State what you know of partiality
 32 on the part of Mrs. Barker toward her
 daughter, Mrs. Legg?

The above question is objected to because it is
 irrelevant, immaterial My. Ely atty for Pff

Ans 1 I think she was

Ques 2 If you ever heard Mrs. Barker, plain-
3 tiff, say why she brought this suit, tell
4 about it?

Ans 5 I have heard her say that if she could get
6 ~~land~~ back she could give it to who she
7 pleased. She told my children in my presence
8 that if she could get the land back she would
9 leave a home for them. She also said
10 that Bell and Malinda had means and she
11 wanted to make it off of them.

12 The foregoing questioned answers are objected to
13 because it is ~~not~~ irrelevant and immaterial.

M. G. Ely atty. for P.

Ques 14 Tell what you know of whether or not
15 H. F. Barker is an heir of B. W. Barker,
16 if you ever heard B. W. Barker say any-
17 thing about the deed which he made
18 to his son H. F., state what it was?

19 The foregoing question is objected to because irrelevant
20 immaterial hearsay and because B. W. Barker is dead,
21 and because H. F. Barker is not a party to this suit.
22 And the deed is the highest and best evidence.

M. G. Ely atty for P.

Ans 23 Have always heard H. F. Barker was an heir of
24 B. W. Barker. Heard B. W. Barker speak of the deed he made to Francis Barker - he
25 said he had not mentioned any maintenance in
26 his deed. though he said when he fell short-
27 and could not maintain himself that he expected
28 and aimed for Francis to do his part in re-
29 gard to maintenance.

Ques 30 Please state what your wife Elizabeth
31 R. Smith has done toward her support

12

1 and maintenance of Plff's household
2 since the death of B. B. Barker

Ans- 3 I don't suppose she has done any thing more
4 than offered her to come and stay with us and
5 fare with us. We wanted to do her the best
6 we could. We both offered her that much
7 as further disservice to it with not
8 Samuel G. Smith

9 attendance 2 days
10 one at Dwyer

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1 Jas R. P. Legg another witness of lawful age
2 first being duly sworn deposes and
3 says:

4 Ques How long have you heard what this other witness
5 has said as to you, your wife & the other de-
6 fendant in this case taking care of the
7 plaintiff, if so would you move
8 about the same statement?

Ans 9 I would.

10 The question and answers are objected as immaterial
11 incompetent and insufficient

12 M. J. Ely atty for Plff.

13 Ques How long before the institution of this suit
14 had your wife, Malinda Legg, had pos-
15 session of the land deed to her by her
16 father by deed bearing date 1, 1875,
17 & which is here sought to be sub-
18 jected to dower?

Ans 19 She had possession from 13 to 15 years
20 before the institution of this suit.

21 Object to on account of immateriality and
22 irrelevancy

23 M. J. Ely atty for Plff.

24 Ques State whether or not you furnished the
25 plaintiff any wearing apparel while
26 she lived with you & your wife?

Ans 26 I did

27 Ques State the difference between the land
28 which was conveyed as above stated now
29 and at the time your wife got posses-
30 sion?

Ans 31 It was in a bad condition regarding fencing
32 In swamps, briars, brush; no improvements
worth anything at all upon it. Since that
time we have cleared it all off

1 diked out the swamps by ditching, cleared
2 and set it in grass and meadows and
3 built a large Barn on it. Reared
4 good fencing all around it.

5 Objected to because it's irrelevant & im-
6 material

W. Ely atty for Pff

7 In. If you ever heard B. M. B. or her say
8 any thing about omitting any thing from
9 the deed which he made his son, W. F.,
10 Tell all about it?

11 For going question is objected to because
12 it's irrelevant, immaterial, hearsay and
13 because B. M. B. is dead

W. Ely atty for Pff

14 Ans I know up to other's Deeds myself. The
15 old man said he intended for Francis
16 to help maintain himself and wife
17 & equally with the other sons

18 The deed to Francis was made several
19 years before the others consequently
20 the provision for support
21 was left out of Francis's Deed
22 - X -

23 In. Please state what your wife Milinda
24 Legg has done in the way of support
25 and maintenance for Pff in the
26 past two years

27 Ans She has offered her support all the
28 time if she could come and stay
29 with her at her own house
30 or if she could save it and not
31 give it away to some one else

Q^{uo} Has she contributed anything
toward her support in the last
two years -

A^{ns} She has done nothing except as
above stated -

Further this Deponent saith not
(2 days attendance) James K. P. Legg

Milinda Legg another witness of law-
ful age first being duly sworn deposes
and says -

Q^{ues} Are you one of the defendants in this
suit, if so state how long you have
been in possession of the land bequeathed
by your father, which is here sought to be
subjected to dower? Tell all you know
about this case -

A^{ns} Yes, Sir, I am - Can't exactly tell how
long but think it about fifteen years
though he tended some on the
land by my permission
After my father's death she went to
Bridge, and begging him to come
and let me take care of her -
as my father requested me to a
short time before he died saying
he wanted his debts all paid and
everything divided equal as his
deed called for and myself and
of Bridge to take care and care for
her. After she stayed there about

1 Eleven months she came to my
2 house, told me she wanted to
3 come and live with us - Claimed
4 that she would like to go ~~and~~
5 to an old house which she sold
6 went Bailey to look - He ~~and~~
7 I told her she could not be off
8 there ~~change~~ if she would come
9 and live with us we would provide for
10 her her lifetime without any expense
11 to any of the heirs. And I understood
12 she took us up at our contract and
13 asked him to go and soon her little
14 bit of plunder there I. we fed her,
15 clothed her, and cared for her during
16 the 3 years she lived with us -
17 She took a notion to stay with
18 Francis awhile - her excuse being
19 he ought to take care of her I said
20 as well as us and Bailey.
21 I am not willing to take any
22 mother (the Plff.) and take care
23 of her if she will live with me so she can't
24 give her living away to the rest of the heirs
25 She gives away what she gets as fast as she
26 gets it. Some of the clothes I gave her
27 she gave to Francis family
28 - X -

29 Please state whether or not you are willing
30 to contribute anything to the support of
31 your Mother and let her live at
32 a house of her own

Ans. I am not - because she has no
house of her own and no one to take
care of her I am not capable of taking care
of any thing she gets - Milinda D. Seyz
(2 days attendance)

Virginia }
Lu Co } Locust:

The foregoing depositions

of Elizabeth Barker, J. J. Yates, Eliza J. Bailey, J. M. Holcomb, Samuel L. Smith, J. R. P. Legg and Malinda Legg were taken subscribed and sworn to before me at the time and place and for the purposes in the caption mentioned

Given under my hand
this Oct. 2, 1894.

M. J. Smith

Commissioner

Virginia:

In the Circuit Court of Lee County
Elizabeth Barker }
vs. } John Chaney
Malinda Legg et al. }

To the Hon. W. L.
Miller, Judge of said Court your
undersigned Commissioner begs
leave to report that he proceeded
to execute your Honor's Decree
on the 1st Day of Oct. 1874 and other
days to which she appeared.

Said Decree is dated June
14th 1874 and an attested office
Copy of which is here filed marked
"A"

Before executing said Decree
your Commissioner gave notice
to the Counsel of the Plaintiff and
Defendants of the time and place of
his sitting.

Your Commissioner reports that the
Plaintiff has been ^{and maintained} supported by one of the
Defendants, Malinda Legg and her husband J. K. P.
Legg for about three (3) years at their home
since the execution to the said Malinda
Legg of a Deed bearing date Jan. 1. 1875
by the said Elizabeth Barker and B. M. Barker
and also that said Plaintiff has been sup-
ported and maintained for about one
(1) year by Eliza J. Bailey, one of the
Defendants, and her husband Wm. Bailey

1 at their home since the execution of a
2 ~~dated~~ ^{Decy. 1. 1875} deed to the said Eliza J. Bailey by
3 the said Elizabeth Barker and B.M. Barker
4 The support above mentioned has been
5 rendered since the possession of the lands
6 as deeded to the said Malinda Legg and
7 Eliza J. Bailey by B.M. Barker and
8 Elizabeth Barker his wife.

9 Your Commissioner reports that such
10 failure as to the Defendants has been
11 for ~~about~~ two (2) years.

12 That the Plaintiff Elizabeth Barker has
13 for two years supported herself.

14 That on account of the acknowledged
15 of the ^{mentioned} deed made by B.M. Barker and
16 Elizabeth Barker ^{to Malinda L. Legg} being defective as
17 to Elizabeth Barker said Elizabeth
18 Barker is entitled to the assignment of
19 her Dower to the lands mentioned in
20 the said deed executed to that defendant
21 ~~herin unless~~ ^{in lieu of dower} she has by election taken support and maintenance
22 as to the amount which would be reason-
23 able for the Defendants to contribute
24 annually for the Plaintiff's support
25 and maintenance, your Commissioner
26 reports that in his judgment ^{\$ Fifty Dollars} (\$50.00) would be a reasonable amount
27 for such support and maintenance
28

29 He also reports that H.L. Barker
30 should be made a party Defendant
31 to this suit he being a son of B.M. Barker
32 That J.N.P. Legg has possession

of Sixty (60) acres of the real estate
that was owned by the said B.N. Barker
and Elizabeth Barker, his wife,
Malinda Legg receiving by deed 30
acres from the said B.N. Barker and
Elizabeth Barker, and has purchased
30 acres from Eliza J. Bailey and
Wm. J. Bailey her husband and Elizabeth
Barker, the same being the 30 acres
as conveyed from B.N. Barker
and wife Elizabeth Barker, to their
daughter Eliza J. Bailey.

Your Commissioner also would
respectfully report that each and
all of the Defendants have offered
since their possession of the lands
herin mentioned, and still
offer to support and maintain the
Plaintiff if she will live with
them or any of them at their houses
but each refuse to do so, or
contribute to her support, and
allow her to live where she
pleases.

Respectfully Submitted

W. A. Orr Jr

Commissioner

The above report is excepted to
because,

1. The commissioner improperly re-
ports plaintiff entitled to dower.

Elizabeth Barker

Decree against

Elizabeth Barker for \$100
with interest from
this date & also that
Mrs Legg & Mrs Barker
shall pay \$30⁰⁰ each
per year \$15⁰⁰ each
every 6 months the 1st of
July & 1st of Jan of each
year first payments
to be made July 1st 1890
and 6 mos thereafter
during life time of 1894

Malinda Legg & al
vs
Report of
Quin W. A. Legg
Filed October 15th 1890
A. B. W. Munnery
Clerk

Bill of Costs
Malinda Legg & al vs Quin W. A. Legg
\$18.00
1.00
50
50
1.00
1.00
1.00
1.00
1.00
1.00
Total
\$25.10

2. Commissioner in properly reports
that defends her failed to support
and maintain plaintiff, and
that they are thereby liable to her
for a specific annuity.

3. Commissioner in properly reports
plaintiff entitled to dower and sup-
port - she cannot claim both -
Nov. 4, 1894.

Over, Blankenship & Co.,
for Depts.

This report is accepted to because it
reports that H. H. Barker should be
made a party to the suit.

Nov. 4. 1894

1 Know all men by these presents that this indenture
2 of bargain and sale made and entered concluded upon
3 this Jan. 1st, A.D., 1875 between Benjamin W. Barker and
4 Elizabeth Barker his wife of Lee County and state of Va.
5 of the one part and Molinda L. Legg of the County and state
6 of said of the other part. Witnesseth, whereas the said
7 Benjamin W. Barker and Elizabeth his wife has. for and in
8 consideration of the sum of one dollar paid in hand the
9 receipt whereof we do acknowledge, do hereby give, grant and
10 sell convey and have bargained sold and delivered unto the
11 said Molinda L. Legg and her heirs and assigns a certain tract
12 or parcel of land containing 30. thirty acres be the same more
13 or less, lying in the County of Lee and state of Virginia situated
14 in the crab orchard and bounded as follows, viz:
15 Beginning on a stake a corner of H. F. Barkus on the old Preston
16 line running with the line thereof north 15 East to a white
17 oak, it being the original Preston corner, thence N. 27 W. 22 poles
18 to a black and dogwood on top of a ridge, thence N. 85 E. 25 poles to a
19 poplar by the long bridge thence S. 55 E to a beech at east end of
20 long bridge, thence southward a straight line to a crab apple sapling
21 on bank of big crab orchard creek thence eastward with
22 meanders of the creek to a white oak and iron wood sapling, thence
23 southward to two black gums. corner to H. F. Barker land, thence N. W.
24 westward to Beginning, running with H. F. Barkus line. To have and to
25 hold the same with all its appurtenances unto the said Molinda L.
26 Legg her heirs and assigns to their sole use and behoof forever
27 and we do covenant with the said Molinda L. Legg and her
28 heirs and assigns that they are free of all incumbrances, that we
29 will warrant and defend the same to the said Molinda L. Legg her
30 heirs and assigns forever warrant and defend the same against all
31 lawful or unlawful claims and demands of all persons whomsoever
32 in witness whereof we hereunto set our hands and affixed
our seals this Jan. 1st 1875 A.D. N.B. The said B. W. Barker and Elizabeth
his wife reserves the right to hold said land in full possession to labor and
to manage to make his maintenance on same until their deaths or until

when we
possession
turned over
16 hrs

1 They see proper to deliver it to the proper owner also the heirs
2 is bound to maintain the said B. W. Barker and Elizabeth his
3 wife at time of delivery and full possession of said land, the
4 said B. W. Barker binds his heirs not to sell the land to any person
5 outside his heirs before his or her death and then to give the heirs the
6 refusal of purchase and at the refusal of said heirs the said owners
7 of said land are at liberty to sell it to any person whomsoever
8 they please in witnesses whereof we have hereunto set our hands
9 and affixed our seals the day and year above mentioned

B. W. Barker *(seal)*

E. W. Barker *(seal)*

11 State of Va. County of Lee to wit:-

12 I Carr Bailey a notary public for the county of aforesaid in the
13 state of Virginia do certify that Benjamin W. Barker and Elizabeth
14 Barker his wife whose names is signed to the writing hereto
15 annexed, bearing date on the 1st day of Jan. 1875 has acknowledged
16 the same before me in my county of aforesaid, the said Elizabeth
17 Barker being examined by me privately and apart from her husband
18 and under my hand this Jan. 15, 1875, Carr Bailey N.P.
19 Virginia. Lee County Court clerk's office the 6th day of May 1878
20 The foregoing deed from Ben. W. Barker and Elizabeth his wife of
21 the one part, to Malinda L. Legg of the other part, all the ^{Lee} County
22 Virginia was this day admitted to record upon the certificate of
23 Carr Bailey a Notary Public in and for the county and state of aforesaid

Teste R. W. Orr Jr. D.C.

25 A Copy - Teste: S. V. F. Richmond Clerk

B. W. Barker and Wife
7 1/2 copy of deed
Malinda L. Legg

"A"

1 Know all men by these presents that this indenture of bargain and
2 sale made and concluded upon this Jan. 1st in the year of our
3 Lord 1875 between Benjamin W. Barker and Elizabeth M. Barker
4 his wife of the County of Lee and State of Virginia of the one part
5 and Elisa J. Bailey of the other part of the County and State of aforesaid
6 Witnesseth whereas the said B. W. Barker and Elizabeth M. his wife
7 has for and in consideration of the sum of one dollar paid in
8 hand the receipt whereof we do acknowledge do hereby give grant
9 sell and convey and have bargained, sold and delivered unto the
10 said Elisa J. Bailey and her heirs and assigns a certain tract or parcel
11 of land containing thirty acres be the same more or less lying
12 in the County of Lee and State of Virginia, situated in the Crob orchard
13 on the big Crob orchard Creek, and bounded as follows viz:
14 Beginning on two black gums corner to H. F. Bakers land on top of
15 a ridge and running northward a straight line to a white oak and
16 hawwood sapling on the bank of big Crob orchard Creek thence
17 westward with meanders of said Creek to a crob apple tree thence
18 northward a straight line to a beech line between Barker &
19 Clingens heirs at east end of the long bridge, thence S. 55 E. to a maple
20 a corner to Richard Morris's land and with his line N. 88 E. 22 poles
21 to a maple and dogwood corner to Clingens land and with line thence
22 S. 8 E. 52 poles to a stake on the bank of the big Crob orchard and
23 down with the meanders of the same to a water birch thence
24 southward to two black gums on top of the ridge, thence westward
25 to the beginning. To have and to hold the same with all its appur-
26 tenances unto the said Elisa J. Bailey and her heirs and assigns to their
27 sole use and behoof forever and we do covenant with said Elisa J.
28 Bailey and her heirs and assigns that they are free of all encumbrances
29 that we will warrant and defend the same to the said Elisa J. Bailey
30 and her heirs and assigns forever. Forever warrant and defend the
31 same against all lawful or unlawful claims and demands of all
32 persons whomsoever in witness whereof we hereunto set our hands
and affix our seals this Jan. 1st 1875. The said B. W. Barker and Elizabeth his
wife reserves the right to hold said land in full possession to labor on for his
support & maintenance until they see proper to deliver the same to the proper owner
also the heirs to bound to maintain said B. W. Barker and wife at time of delivery
and possession of said land. The heirs bind themselves not to sell said

1 land to any person outside the heirs until the death of said B. W. Barker
2 then they bind themselves to give the heirs the first refusal or chance
3 of purchase and at the refusal of said heirs they are at liberty to
4 sell to any person they see proper. In witness whereof we have
5 affixed our seals the day and year above ^{mentioned} ~~written~~ set our hand &c -

6 B. W. Barker *[Signature]*

7 E. W. Barker *[Signature]*

8 State of Virginia county of Lee to wit: -

9 I Can Bailey a notary public for the County of aforesaid in the State of
10 Virginia do certify that Benj. W. Barker & Elizabeth Barker his wife
11 whose names is signed to the writing hereto annexed, bearing
12 date on the first day of Jan. 1875 has acknowledged the same before
13 ^{in any county of aforesaid} me ~~personally and apart~~ the the said Elizabeth Barker being examined
14 by me ~~personally and apart~~ from her husband. Given under my hand
this Jan. 15th 1875. Can Bailey N.P.

15 Virginia Lee County court clerk's office the 17th day of May 1878.
16 The foregoing bond from Benj. W. Barker & Elizabeth M. his wife of the
17 one part to Eliza J. Bailey of the other part, a co of Lee County
18 Va. was this day admitted to record on the certificate of Can
19 Bailey a notary public in and for the County and State of aforesaid

20 Teste A. W. Carr, Jr. S.C.

21 A Copy - Teste: S. V. F. Richmond Clerk

22
23
24
25
26
27
28
29
30
31
32
'B'

B. W. Barker admtd
7/22 Copy of bond
Eliza J. Bailey

1 Know all men by these presents that this indenture
2 of bargain and sale made and concluded upon January 1st
3 in the year of our lord 1875 between Benjamin W. Barker
4 and Elizabeth Barker his wife of Lee County and State
5 of Virginia of the one part and Elizabeth R. Barker of the
6 County and State aforesaid of the other part.
7 Witnesseth whereas B.W. Barker and Elizabeth his wife has
8 for and in consideration of the sum of \$1.00 one dollar in
9 hand the receipt whereof we do acknowledge do hereby give
10 grant and sell convey and have bargained sold and
11 delivered unto the said Elizabeth R. Barker and heirs
12 and assigns a certain tract or parcel of land containing 45
13 acres, forty five acres be the same more or less, lying in the County
14 of Lee and State of Virginia, situated in the Crab Orchard bounded
15 as follows viz: Beginning on a spruce pine corner to H.F. Barker's
16 land on Wells Branch, thence northward with same line to
17 two black gums ^{corner to H.F. Barker's land thence eastward to two black gums} on top of the ridge, thence N.W. to a water
18 birch on bank of Big Crab Orchard thence up with meanders of
19 ^{thence up with meanders of same creek 42 poles to a stake} creek to a stake S. 30. E. 62 poles to a stake on said Wells branch
20 and down ^{with} the meanders of the same to beginning to have
21 and to hold the same with all its appurtenances unto the
22 said Elizabeth R. Barker and heirs and assigns forever. We will
23 forever warrant and defend the same against all the lawful
24 and unlawful claims and demands of all persons whatsoever.
25 In witness whereof we hereunto set our hands and affix our
26 seals. This January 1st 1875. The said Benjamin W. Barker and
27 Elizabeth his wife reserves the right to hold said land in
28 full possession to labor and support and maintain himself or
29 for his support & maintenance until they see proper to deliver
30 said land to the proper owner. Also the heirs is bound to maintain
31 said B.W. and Elizabeth Barker at time of delivery and full
32 possession of said land. The heirs bind themselves not to sell

1 said land to any person outside the heirs until their death
2 then the heirs bind themselves to let the heirs have the first
3 refusal of said purchase in land and at the refusal of said
4 heirs they are at liberty to sell to any person whomsoever in
5 witness whereof we have set our hands and seals the
6 day and year above mentioned now if the said Elizabeth
7 R. Barker shall die without children then said land shall
8 go to my lawful heirs B. W. Barker *E. B.*
9 E. W. Barker *E. B.*

10 State of Virginia. County of Lee to wit:—
11 I bear Bailey a Notary Public for the County of aforesaid
12 in the state of Virginia. do certify that Benjamin W. Barker
13 and Elizabeth Barker his wife whose names is signed
14 to the writing hereto annexed bearing date on January 15th
15 1875 has acknowledged the same before me in my County
16 of aforesaid, the the said Elizabeth Barker being examined
17 by me privily and apart from her husband, Given under
18 my hand this January 15th 1875.

19 bear Bailey N. P.
20 Virginia Lee County Court Clerk's office the 17th day of May
21 1878. The foregoing Deed from B. W. Barker & Elizabeth his wife
22 of the one part to Elizabeth R. Barker of the other part. all of
23 Lee County Virginia of the other part. was this day admitted
24 to record upon the certificate of bear Bailey Notary Public
25 do and for the county and state of aforesaid.

26 Teste R. W. Ongr. S. C.
27 A Copy - Teste: S. V. H. Richmond Clerk
28
29
30
31
32

B. M. Barker and Wife

To } Copy of Deed.

Elizabeth R. Barker

Exhibit "A"

This November 2/31 1886.

D. B 23
Page 423
S. F. R.
Burr

Known all men by these presents that
this indenture and bargain and sale
made between Eliza J. Barker and Wm. J.
Bailey her husband and Elizabeth M.
Barker her mother in the County of
Lee and State of Virginia of the first
part, and James W. P. Legg of the above
mentioned County and State of sec-
ond part Witnesseth that the said par-
~~ties~~ ties of the first part in consider-
ation of the sum of six hundred dollars
in lawful money of the United States
to them in hand paid by the party
of the second part at or before en-
sealing and delivery of these presents
the receipt whereof is hereby acknowledged
and the said party of the second part
his executors and administrators for-
ever released and discharged from the
same by these presents has granted
bargained sold aliened remised
released conveyed and confirmed
confirmments to the said party of the
second part and to his heirs and
assigns forever all that parcel or
tract of land situated in the Crab
Orchard County of Lee and State
of Virginia containing 30 acres be the
same more or less lying on the wa-
ter of Big Crab Orchard Creek and
bounded as follows viz Beginning

1 At two black gums a corner of N. F.
2 Baskers land on top of a ridge and run-
3 ning northward a straight line to a
4 white Oak and iron wood sapling
5 on the bank of the Big Crab Orchard
6 creek Thence westward with meander-
7 ing of said creek to a crab Apple tree
8 thence northward a straight line to a
9 beech on line between Baskers and
10 Oliver heirs at East end of the long
11 bridge thence South 55 E to a maple
12 a corner to Richard Morris land and
13 with his line N 88 E 22 poles to a maple
14 and dogwood corner to Olingers land
15 and with same line the w of S 88 E 52
16 poles to a stake on the bank of the
17 big Crab Orchard Creek and down
18 with the meandering of the same to
19 a water birch thence Southward to
20 two black gums on top of a ridge
21 thence westward to the Beginning

22 That the described premises is free
23 and clear of all incumbrances what-
24 soever the above or aforesaid described
25 tract or parcel of land contains 30 Acres
26 by the same more or less to have & to
27 hold the same together with all and
28 singular the tenements hereditaments
29 and appurtenances thereto belonging
30 or in anywise appertaining, and the
31 reversions and reversions and remainder
32 and remainders unto issues and

1 profits thereof, and also all the rents
2 estates right title interest dower &
3 dower right and property possession
4 blood claim and demand what so
5 ever, both in law and in equity
6 of the said parties of the first part
7 of in and to the above granted
8 premises and every part and parcel
9 thereof with the appurtenances. ~~To have~~
10 ~~and to hold the above mentioned~~
11 ~~and described premises with the ap-~~
12 ~~purtenances~~ To have and to hold the
13 above mentioned and described prem-
14 ises with the appurtenances and every
15 part thereof to the said party of the
16 second part his heirs and assigns
17 forever, and the said Euzaj. Bailey
18 and Mrs. Bailey her husband and
19 Elizabeth M. Barker her mother and
20 their heirs, The above described and
21 hereby granted and release premises
22 and every part and parcel thereof
23 with the appurtenances dower and
24 right of dower & courtesy of her hus-
25 band & mother unto the said party of
26 the second part his heirs and assigns
27 against the parties of the first part
28 and their heirs and assigns and
29 against all and every person and
30 persons whosoever lawfully or un-
31 lawfully claiming or to claim the
32 same or any part or parcel thereof

1 shall and will warrant and for-
2 ever defend the same to the said
3 J. O. P. Legg and his heirs and assigns
4 in witness whereof the parties of
5 the first part has hereunto set
6 their hands and seals this the 21st
7 day of November 1888.

8 Signed Sealed and delivered in
9 the presence of witnesses) Eliza J. Bailey Seal
10 F. M. Parsons Elizabeth M. Barber Seal
11 Test Benith Bailey W. J. Bailey Seal

12
13 State of Virginia } ss
14 County of Lee J. F. M. Parsons a
15 Justice of the Peace for the aforesaid
16 County and State do certify that
17 Eliza J. Bailey and W. J. Bailey her
18 husband and Elizabeth M. Barber
19 whose names are signed to the fore-
20 going deed bearing date on the
21 21st day of November 1888 acknowledged
22 the same before me in my County
23 and State aforesaid to be their act
24 and deed and having the aforesaid
25 writing fully explained they willing
26 executed the same and do not
27 wish to retract it. Given under my
28 hand and seal this the 21st day of
29 November 1888.

30 Francis M. Parsons J.
31 Virginia Lee County Court Clerk's office
32 Dec 10th 1888. The foregoing deed

bearing date Nov. 21st 1888 between W^m
J. Bailey and Eliza J. Bailey his wife &
Elizabeth M. Barker of the first part
and J. O. Lugg of the second part all
of Lee County Va. was this day filed in
this office and admitted to record upon
the certificate of J. M. Parsons a Justice
of the Peace for Lee County Va.

Test: John R. Gibson
Clerk

A Copy - Test: S. F. Richmond Clerk

J. W. P. Legg,

From 3 Copy.

Deed

Wm J Bailey et al.

7.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Melinda Legg and Eliza J Bailey

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *3rd* Monday in *April*, 189*4*, to answer a bill in Chancery, exhibited against *them* in our said court by *Elizabeth M Barker*

And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,

the *31st* day of *March* 189*4*, and in the 11 *8th* year of the Commonwealth.

A B Munsey Clerk.

Elisabeth M Barker

US. { SUBPENA
IN CHANCERY.

Malinda T Legg et al

M G Ely p. q.

To 2nd April Rules 1894

Circuit Court.

Executed April 9 1894
By Delivering a copy
of this Subp. in Chancery
to Malinda Legg

H. J. Bailey
N R Kirk & S
for G E Selman
S S C

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Eliza J. Bailey, Malinda Legg
and Elisabeth R. Smith

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *3rd* Monday in *May*, 189*4*, to answer a bill in Chancery, exhibited against *them* in our said court by *Elisabeth Barker*

And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,

the *16th* day of *April*, 189*4*, and in the 11 *8th* year of the Commonwealth.

A B Munsey Clerk.

Elisabeth Barker

US.

{ SUBPENA
IN CHANCERY.

Eliza J Bailey et al

M G Ely p. q.

To 2nd May Rules,

Circuit Court.

Not Executed Not
found M R Kirk Ds
for B E Heary
S L B

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Eliza J. Bailey, Malinda Legg
and Elisabeth R. Smith*

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *3rd* Monday in *April*, 189*4*, to answer a bill in Chancery, exhibited against *them* in our said court by *Elisabeth Barker*,

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *16th* day of *April*, 189*4*, and in the *11^{8th}* year of the Commonwealth.

A Copy Teste

A B Munsey Clerk.

A B Munsey Clerk

vs.

{

SUBPÆNA
IN CHANCERY.

p. q.

To..... Rules,
Circuit Court.

For Elisabeth Smith